

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

EVANS ET AL,

No. C-11-01078 DMR

Plaintiffs,

**ORDER RE JOINT DISCOVERY  
LETTER**

v.

LINDEN RESEARCH, INC. ET AL,

Defendants.

On July 15, 2011, the parties submitted a joint report pursuant to Federal Rule of Civil Procedure 26(f) in which they proposed an October 20, 2011 deadline for completing “Phase 1” discovery, which they agreed would “pertain solely to the issue of whether a class should be certified.” [Docket No. 57 at 6.] On August 8, 2011, the court entered a Case Management Order adopting certain deadlines in the parties’ July 15 joint report, including the October 20, 2011 Phase 1 discovery deadline. Thereafter, on October 19, 2011, the parties submitted a stipulated proposed order to extend the October 20 “fact discovery cutoff solely for the purpose of scheduling and taking” three to four depositions [Docket No. 65], which the court entered on October 20, 2011. On January 6, 2012, the parties submitted a joint letter regarding their dispute regarding discovery which Plaintiffs assert is relevant to issues pertaining to class certification. [Docket No. 72.] Plaintiffs seek an order compelling further responses to interrogatories, requests for admission, and requests for production.

Pursuant to Civil Local Rule 37-3, where the court has set a deadline for fact discovery, “no motions to compel fact discovery may be filed more than 7 days after the fact discovery cut-off.” Accordingly, “[c]ounsel should initiate discovery requests and notice depositions sufficiently in advance of the cut-off date to comply with this local rule.” Commentary to N.D. Civ. L.R. 37-3. To the extent that Plaintiffs seek an order compelling further responses to Phase 1 discovery, which closed on October 20, 2011, the court concludes that the joint discovery letter is untimely. To the extent that Plaintiffs seek an order compelling further responses to Phase 2 discovery, such a request is premature. Plaintiffs’ request for an order compelling further responses to discovery is therefore DENIED.

IT IS SO ORDERED.

Dated: January 12, 2012

